



officer requesting assistance was about a block and one-half from the claimant. The claimant and Officer Jones started walking to the other officer's location in a hurried manner. Claimant was about one-half block from the other officer's location when his right knee popped and he experienced pain. Claimant immediately advised Officer Jones of his problem, stopped, stretched his knee and was able to continue to the other officer's location walking with a limp. Officer Jones testified at the preliminary hearing and corroborated claimant's testimony. After the knee popped, Officer Jones observed that the claimant was limping and he had not limped prior to the incident.

Previous to the August 20, 1994 incident, claimant had a total of five surgeries on his right knee. The first surgery occurred in 1985 as a result of a football injury and the last surgery was performed on May 26, 1994, by Duane A. Murphy, M.D., an orthopedic surgeon, Wichita, Kansas. At that time, a meniscal cyst was excised from the lateral meniscus. Claimant returned to his full duties as a police officer on June 15, 1994.

On August 23, 1994, claimant first sought medical treatment for the subject injury from Dr. Murphy for his right knee injury. Dr. Murphy diagnosed a recurrent lateral synovial cyst with lateral meniscal tear. He prescribed anti-inflammatories and released claimant for desk duty only. In a letter dated November 18, 1994, Dr. Murphy opined that claimant's right knee condition that occurred on October 20, 1994, (sic) was related to his work.

Respondent sent the claimant for treatment to J. Stanley Jones, M.D., an orthopedic surgeon in Wichita, Kansas, on October 26, 1994. Dr. Jones confirmed Dr. Murphy's diagnosis and performed an excision of a meniscal cyst with a Marlex graft on December 13, 1994.

Respondent contends that claimant did not suffer a work-related injury to his right knee, as the injury was caused only by normal activities of day-to-day living and was not a result of a special risk associated with his employment. Additionally, respondent argues that six (6) days prior to the alleged accidental injury, claimant complained that he hurt his knee playing softball.

After a review of the preliminary hearing record, the Appeals Board finds that it is more probable true than not that claimant aggravated or accelerated his preexisting right knee condition while performing his normal work activities on August 20, 1994. A claim is compensable if a worker's preexisting condition is aggravated, accelerated or intensified by a subsequent industrial injury that results in disability. See Harris v. Cessna Aircraft Co., 9 Kan. App. 2d 334, 678 P.2d 178 (1984). Any lesion in the physical structure of a worker causing harm may be a personal injury if it occurs under the stress of usual labor. See Demars v. Rickel Manufacturing Corporation, 223 Kan. 374, 573 P.2d 1036 (1978). In the instant case, claimant's hurried walking aggravated a preexisting meniscal cyst and further caused a tear in the right lateral meniscus. Accordingly, the Preliminary Hearing Order entered by the Administrative Law Judge that granted medical and temporary total benefits is affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the February 23, 1995, Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May, 1995.

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BOARD MEMBER

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BOARD MEMBER

c: John L. Carmichael, Wichita, Kansas  
Kendall R. Cunningham, Wichita, Kansas  
Shannon S. Krysl, Administrative Law Judge  
George Gomez, Director